REMARKS

[0003]   Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 CFR. § 1.116 as they place the application in better form for appeal, or for resolution on the merits.

[0004]   Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1, 4-17, 20-42 are presently pending. Claims amended herein are 1, 17, 25, and 42. Claims cancelled herein are 2, 3, 18, and 19. No new claims are added herein.

Statement of Substance of Interview

[0005]   The Examiner graciously talked with me—the undersigned representative for the Applicant—on December 15, 2008. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0006]   During the interview, I discussed how the claims differed from the cited references, McNally and Weldon. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

Serial No.: 10/693,838
Atty Docket No.: MS1-1778US
Atty/Agent: Robert C. Peck
-19-
lee&hayes   The Business of IP ™
www.leehayes.com   509 324.9256

[0007]   The Examiner was receptive to the proposals, but indicated that he would need to review the cited references more carefully and/or do another search, and requested that the proposed amendments be presented in writing.

[0008]   Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited references of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0009]   If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can discuss this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0010]   Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

Claim Amendments

[0011]   Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 17, 25, and 42 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject

Serial No.: 10/693,838
Atty Docket No.: MS1-1778US
Atty/Agent: Robert C. Peck
-20-
lee&hayes   The Business of IP ℠
www.leehayes.com   509.324.9256

matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

Substantive Matters

Claim Rejections under § 102 and § 103

[0012]   The Examiner rejects claims 1-3, 5-7, 10-22, 24-28, 30-34, 37-45 and 47 under § 102. In addition, the Examiner rejects claims 4, 8-9, 23, 29, 35-36 and 46 under § 103.   In response, Applicant has amended the claims to overcome the Examiner's rejections.

[0013]   Accordingly, Applicant respectfully requests that the § 102 and § 103 rejections be withdrawn and the case be passed along to issuance.

[0014]   The Examiner's rejections are based upon the following references alone or in combination:

- **McNally:** *McNally, et al.,* US Patent No. 6,259,448 (issued July 10, 2001); and

- **Weldon:** *Weldon, et al.,* US Patent No. 7,117,158 (issued October 3, 2006).

Overview of the Application

[0015]   The Application describes a technology for integrating design, deployment, and management phases for a system in accordance with certain aspects that includes using a system definition model to design a system. The system definition model is subsequently used to deploy the system on one or more computing devices and, after deployment of the system, the system

definition model is used to manage the system deployed on the one or more computing devices.

Cited References

[0016]   The Examiner cites McNally as the primary reference in the anticipation- and obviousness-based rejections. The Examiner cites Weldon as the secondary reference in the obviousness-based rejections.

McNally

[0017]   McNally describes a technology for deploying a "resource model" in a distributed computer network using a computer having graphical user interface (GUI). The resource model has a number of properties associated therewith including a set of mapping rules. To deploy the resource model, an icon representing the resource model is displayed on the interface, together with a set of distribution icons. Each distribution icon, for example, represents a set of given machines in the distributed computer network. The icon representing the resource model is then associated with a selected one of the distributed icons, preferably via a drag-and-drop protocol. When the resource model icon is dropped onto the selected distribution icon, the resource model is deployed in the network by instantiating its mapping rules at each machine in the set.

Weldon

[0018]   Weldon describes a technology for an IVR system that may be designed by accepting designer inputs to generate, on a display screen, a flowchart of interconnected flowchart processing blocks and flowchart decision blocks that represent a process flow of processing steps and branches, respectively, in the IVR system. By allowing the designer to generate a flowchart of interconnected flowchart processing blocks and flowchart decision blocks on a single display screen, a potentially simplified graphical user interface may be provided for designing an IVR system. The flowchart of interconnected flowchart processing blocks and flowchart decision blocks may be executed, based on at least one designer input on a keypad image, to simulate or test the IVR system. A self-documenting audit trail may be provided during the design of the IVR system. These audit trails may be associated with a version of the IVR system, so that multiple versions of the system may be managed. When deploying the IVR system, caller inputs may be sequentially stored in an order in which they were provided by the caller, to provide call logging. Regulatory compliance thereby may be facilitated.

Serial No.: 10/693,838
Atty Docket No.: MS1-1778US
Atty/Agent: Robert C. Peck
-24-
lee&hayes   The Business of IP ™
www.leehayes.com   509.324.9256

Anticipation Rejections

Based upon McNally

[0019]   The Examiner rejects claims 1-3, 5-7, 10-22, 24-28, 30-34, 37-45 and 47 under 35 U.S.C. § 102(b) as being anticipated by McNally. In response, Applicant has amended the claims. Based on these amendments and the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0020]   Applicant submits that McNally does not anticipate this claim, as amended, because it does not disclose at least the following features as recited in this claim (with emphasis added):

- "**using a system definition model in a development phase of a system to design the system, wherein the system is an application**"
- "**subsequently using the system definition model in a deployment phase of the system to deploy the system** on one or more computing devices"

[0021]   In contrast, the primary reference (McNally) describes a resource model to be associated by an administrative user with one or more managed computing devices through a graphic user interface (GUI). The GUI enables the user to drag and drop a resource model on an icon for a computing device to

facilitate management of the device. The resource models include rules and other properties for tracking a state of the computing device and managing the device.

[0022]   McNally fails, however, to disclose use of a system definition model "to design the system, wherein the system is an application." McNally does not discuss the design of an application, much less the use of a "system definition model" in designing such an application. The resource model – which the Examiner equates to the system definition model – is not used to design an application. Rather, it is deployed using the GUI to computing devices to facilitate management those devices. Even assuming for the sake of argument that the dragging and dropping of resource models on computer icons is a form of design (a point which Applicant does not concede), that form of design would not be design of an *application*, as claimed in the amended claims.

[0023]   In the "Response to Arguments" section of the Rejection, the Examiner points out that "system is a very broad concept". In response, Applicant has amended claim 1 to indicate more clearly that the claimed system is an application. As mentioned, McNally does not disclose any "system" that is designed and deployed.

[0024]   Also, in the "Response to Arguments" section of the Rejection, the Examiner states that the "phases" mentioned in claim 1 do not further limit the claim and thus have no patentable weight. Applicant respectfully disagrees. A "phase", as that term is understood by those of skill in the art, is a part of a software development lifecycle. Thus, by saying that the system definition model of claim 1 is used in a "design phase", claim 1 is requiring that the system

Serial No.: 10/693,838
Atty Docket No.: MS1-1778US
Atty/Agent: Robert C. Peck
-26-
lee&hayes   The Business of IP ™
www.leehayes.com   509.324.9256

definition model be used in a specific stage of a software lifecycle. Since use during a "design phase" is not an inherent property of a "system definition model" (giving that term the same breadth of reading that it would be given by those of skill in the art), recitation of use in the design phase does in fact further limit claim 1 and add patentable weight.

[0025]   Consequently, McNally does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Independent Claims 17, 25, 31, and 42

[0026]   These claims include recitations similar to those discussed above with regard to claim 1. Accordingly, for at least the same reasons, these claims are patentable over McNally.

[0027]   Additionally, claim 42 includes other recitations not disclosed by McNally, namely at least:

- "using another system definition model to design an environment, wherein the system is deployed to the environment on the one or more computing devices"

- "subsequently using the other system definition model to deploy the environment on the one or more computing devices"

Serial No.: 10/693,838
Atty Docket No.: MS1-1778US   -27-   lee&hayes   The Business of IP ™
Atty/Agent: Robert C. Peck   www.leehayes.com   509.324.9256

- "after deployment of the environment, using the other system definition model to manage the environment deployed on the one or more computing devices"

- "wherein the system definition model includes constraints that must be satisfied by the environment in order for the system to be run on the one or more computing devices, and wherein the other system definition model includes other constraints that must be satisfied by the system in order for the system to be run on the one or more computing devices"
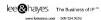
[0028]   Thus, claim 42 recites two system definition models, one for a system that is an application and another for an environment, where the definition model for the system includes constraints that must be met by the environment and the definition model for the environment includes constraints that must be met by the system.

[0029]   While McNally does describe multiple resource models, it does not provide any description of resource model constraints that apply to resources other than those to which the resource models are deployed.

[0030]   Thus, for at least these additional reasons, claim 42 is patentable over McNally

Dependent Claims 2, 3, 5-7, 10-16, 18-22, 24, 26-28, 30, 32-34, 37-41, 43-45 and 47

[0031]   Claims 2, 3, 18, and 19 are cancelled, obviating their rejections.

Serial No.: 10/693,838
Atty Docket No.: MS1-1778US   -28-   lee&hayes   The Business of IP ™
Atty/Agent: Robert C. Peck   www.leehayes.com   509.324.9256

[0032]   Claims 5-7, 10-16, 20-22, 24, 26-28, 30, 32-34, 37-41, 43-45 and 47 ultimately depend upon independent claims 1, 17, 25, 31, and 42. As discussed above, claims 1, 17, 25, 31, and 42 are allowable.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

[0033]   Additionally, claims 14 and 40 include recitations similar to the additional recitations discussed above with regard to claim 42. Accordingly, for at least the same reasons, these claims are patentable over McNally.

Serial No.: 10/693,838
Atty Docket No.: MS1-1778US
Atty/Agent: Robert C. Peck
-29-
lee&hayes   The Business of IP ™
www.leehayes.com   509 324.9256

Obviousness Rejections

Based upon McNally and Weldon

[0034]   The Examiner rejects claims 4, 8-9, 23, 29, 35-36 and 46 under 35 U.S.C. § 103(a) as being unpatentable over McNally.   In view of the claim amendments, Applicant respectfully asks the Examiner to withdraw the rejection of these claims.

[0035]   Weldon is not cited as disclosing the above-discussed recitations of claims 1, 17, 25, 31, and 42 and does not disclose those recitations. Accordingly, claims 1, 17, 25, 31, and 42 remain patentable even when Weldon is combined with McNally.

[0036]   Claims 4, 8-9, 23, 29, 35-36 and 46 ultimately depend upon independent claims 1, 17, 25, 31, and 42. As mentioned above, claims 1, 17, 25, 31, and 42 are allowable, even over McNally and Weldon combined.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally, some or all of these claims may also be allowable for additional independent reasons.

Conclusion

[0037]   All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application.   If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action**. Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC
Representatives for Applicant

/Robert C. Peck/   Dated: 01/23/09
Kasey C. Christie (kasey@leehayes.com; x4732)
Registration No. 40559
Robert C. Peck (robp@leehayes.com; x6019)
Registration No. 56826
Customer No. **22801**

Telephone: (206) 315-4001
Facsimile: (509) 323-8979
www.leehayes.com

lee&hayes   The Business of IP ™
www.leehayes.com   509.324.9256